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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,258	01/16/2004	Jeffrey M. Dils	10710/229 (PTG 1020 PUS)	6917
757	7590	03/02/2006	EXAMINER	
BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610			ALIE, GHASSEM	
			ART UNIT	PAPER NUMBER
			3724	
DATE MAILED: 03/02/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/759,258

Applicant(s)

DILS ET AL.

Examiner

Ghassem Alie

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 1-25 and 27-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 07/15/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Election/Restrictions

1. Applicant's election of invention in Group III (claim 26) on 10/11/05 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

It should be noted that Group III (claim 26) includes a single claim that is generic to the Species A-C. In addition, two or more distinct Species are not claimed in Group III or claim 26. Therefore, applicant is not required to further elect one of the Species A-C. Thus, applicant's reply filed on 10/11/05 is considered to be responsive to the restriction requirement filed on 09/06/05.

2. Claims 1-25 and 27-36 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected inventions, there being no allowable generic or linking claim.

Drawings

3. The drawings are objected to because Figs. 9-14, which appear to be, photocopy of photographs or black and white photographs are not generally permitted in utility patent applications. The Office accepts photographs in utility applications, if photographs are the only practicable medium for illustrating the claimed invention. See MPEP 608.02 (V) (b). However, this is not the case with the claimed instant invention. In addition, the photographs or Figs 9-14 are too dark and different parts of the apparatus cannot be distinguished from one another.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: “72” in page 8, line 8 in the specification.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

5. Claim 31 is objected to because of the following informalities: “The machine of claim 26” should be --The machine of claim 27--.

Claim 26 is objected to because of the following informalities: “c. selectively providing” should be --b. See line 5 in claim 26. Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 26 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 26, “detecting a close proximity between the user and a portion of the cutting tool not including the cutting blade” is not accurate. For example, the specification defines a portion of the cutting tool is considered to be the guard or the protective barrier 44 or throat plate 72. See Fig. 2 of the drawings and page 8, lines 3-24 in the specification. The guard or the throat plate has surfaces located in a fixed distance from the blade. Therefore, the detecting system detects the proximity of the user to the guard or the throat plate and inherently the blade itself. Because, as stated above, the guard or the throat plate are in vicinity of the cutting blade and detection of close proximity between a person and the guard or the throat plate also inherently includes the detection of close proximity of a person to the blade itself. The detection system inherently detects the close proximity between a person and the blade. Therefore, in this case, the blade cannot be excluded by the negative limitation. It suggested that the claim recites that a sensor is attached to the guard or the throat plate and the sensor detects a close proximity between a person and the guard or the throat plate.

Regarding claim 26, “selectively providing a warning signal ~~on~~ stopping motion of the saw blade, upon detecting the close proximity” is not clear. It is not clear what the

limitation “providing stopping motion of the saw blade” means. Is this should be --providing a warning signal or stopping the motion of the saw blade, upon detecting the close proximity--? It is not clear what is being selected here. Is there a selection between a step of providing a warning signal or step of stopping the motion of the saw blade? Is there a selection between having a warning signal or a mechanism to stop the motion of the saw blade and not having not a warning signal or a mechanism to stop the motion of the saw blade? It also should be noted that the specification does not teach that the control system selects between two reactions, mainly a warning signal or an action that stops the motion of the saw blade, upon the detecting the close proximity. The control system provides one or two simultaneous reactions upon the detecting the close proximity. If applicant's set forth a claim that clearly claims that the control system can select between two reactions upon the detecting the close proximity, there will be issues under 35 U.S.C. 112, first paragraph. Because, it not clear what is the need of selecting between two reaction systems. The specification also fails to teach when a reaction system is selected over another reaction system and what is the need of the selection between two reaction systems.

It should be noted that the noted that the specification of the instant invention discloses that upon detecting the close proximity between a person and the portion of the cutting tool, an audible beeper 34, a warning light, 32, disable the blade 40, or a combination thereof is activated. The specification also discloses, “it can be recognized by one skilled in the art that there are a variety of actions sufficient to either provide the user with a warning signal or to disable the cutting blade.” See page 8, lines 30-34 and page 9, lines 1-3 in the specification. In view of the specification, Examiner's interpretation of the limitation

“selectively providing a warning signal or stopping motion of the saw blade” is that either a warning signal or an action to stop the motion of the saw blade is provided, upon detecting the close proximity.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claim 26, as best understood, is rejected under 35 U.S.C. 102(e) as being anticipated by Metzger, Jr. (6,900,728), hereinafter Metzger. Regarding claim 26, Metzger teaches a method of minimizing the risk of injury to a user of a cutting tool where the cutting tool 10 includes a moving cutting blade. Metzger also teaches a step of detecting a close proximity between the user and a portion of the cutting tool 20, not including the cutting blade 1. It should be noted that the detection system or conductive sensor 20 is situated on the insert 20 of the cutting tool 10. Metzger also teaches a step of selectively providing a warning signal or stopping motion of the saw blade upon detecting the close proximity. In response to the detection of close proximity of a person to the dangerous zone 21, an alarm may be activated or alternatively the rotation of the saw blade may be stopped. See Figs. 1-14 and col. 1, lines 41-54 and col. 3, lines 3-67 in Metzger.

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claim 26, as best understood, is rejected under 35 U.S.C. 102(b) as being anticipated by Salmont (2,554,124) or Hayashi (3,953,770). Regarding claim 26, Salmont teaches a method of minimizing the risk of injury to a user of a cutting tool where the cutting tool includes a moving cutting blade 1. Salmont also teaches a step of detecting a close proximity between the user and a portion of the cutting tool 2, not including the cutting blade 1. It should be noted that the detection system is connected to the guard 2 which is considered to be the portion of the saw machine that does not include the cutting blade. Salmont also teaches a step of selectively providing stopping motion of the saw blade upon detecting the close proximity. It should be noted that upon the detection of close proximity of a person with the guard 2, a brake mechanism quickly brings the saw blade to stop. See Fig. 1-2 and col. 3, lines 25-55 and col. 5, lines 17-32 in Salmont.

It should be noted that the specification of the instant invention discloses that upon detecting the close proximity between a person and the portion of the cutting tool, an audible beeper 34, a warning light, 32, disable the blade 40, or a combination thereof is activated. The specification also discloses, “it can be recognized by one skilled in the art that there are a variety of actions sufficient to either provide the user with a warning signal or to disable the cutting blade.” See page 8, lines 30-34 and page 9, lines 1-3 in the specification. In view of the specification, Examiner’s interpretation of the limitation “selectively providing a warning signal or stopping motion of the saw blade” is that either a warning signal or an action to stop the motion of the saw blade is provided, upon detecting the close proximity.

In addition, it should be noted that Salmont teaches that upon detection of proximity, the power to the motor is interrupted and the brake mechanism stops the rotation of the saw simultaneously. See page 5, lines 25-32 in Salmont. Therefore, there is a selection between using the brake mechanism to stop the blade upon the detecting the close proximity or disabling the braking system and not using the brake mechanism to stop the blade movement upon the detecting the close proximity.

Regarding claim 26, Hayashi also teaches a method of minimizing the risk of injury to a user of a cutting tool where the cutting tool includes a moving cutting blade 30. Hayashi also teaches a step of detecting a close proximity between the user M and a portion of the cutting tool, not including the cutting blade 1. It should be noted that the detection system 20 is connected to the part of the cutting tool; instead of being connected to the cutting blade. Hayashi also teaches a step of selectively providing stopping motion of the saw blade upon detecting the close proximity. It should be noted that upon detection of proximity of a person with the dangerous zone around detector 20, the shearing machine 18' will be stopped. See Figs. 1-4 and col. 2, lines 1-68 and col. 3, lines 1-47 in Hayashi.

It should be noted that the specification of the instant invention discloses that upon detecting the close proximity between a person and the portion of the cutting tool, an audible beeper 34, a warning light, 32, disable the blade 40, or a combination thereof is activated. The specification also discloses, "it can be recognized by one skilled in the art that there are a variety of actions sufficient to either provide the user with a warning signal or to disable the cutting blade." See page 8, lines 30-34 and page 9, lines 1-3 in the specification. In view of the specification, Examiner's interpretation of the limitation "selectively providing a warning

signal or stopping motion of the saw blade” is that either a warning signal or an action to stop the motion of the saw blade is provided, upon detecting the close proximity.

In addition Hayashi teaches that upon the detection of a hand of the user that is not covered by a glove, an alarm, a light, or other warning signal are activated. Hayashi also teaches upon detection of the user’s hand in dangerous zone, the motion of the shearing blade is stopped. See col. 3, lines 18-46 in Hayashi. Therefore, selectively a warning signal or an action to stop the motion of the blade is provided upon detecting of the close proximity of a person and a portion of the cutting tool.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant’s disclosure.

Suzuki et al. (6,376,939), Lokey (3,785,230), Friemann et al. (3,858,095), Sako (6,959,631), and Hughes et al. (5,081,406) teach a method of minimizing the risk of injury to a user of a cutting tool includes a moving cutting blade.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Allan Shoap can be reached on (571) 272-4514. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

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applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (too-free).

GA/ga

December 28, 2005


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